

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

Kate, et al.

Plaintiffs,

vs.

de Blasio, et al.

Defendants.

DECLARATION OF PETER OTTO

Civil Action No. 1:21-cv-07863

STATE OF NEW YORK)
) ss.:
COUNTY OF SUFFOLK)

PETER OTTO, declares under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following is true:

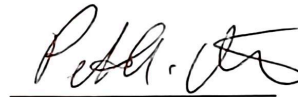
- 1) My name is Peter Otto.
- 2) I have worked in the New York City public school system for over 14 years. My current position is as an appointed High School Social Studies Teacher and School Programmer in Jamaica, Queens.
- 3) On Monday, October 4, 2021, I was placed on unpaid leave because I was not in compliance with the COVID-19 vaccine mandate.
- 4) One other teacher in my school, Michael Kane, was also placed on unpaid leave because he was not in compliance with the COVID-19 vaccine mandate.
- 5) A third teacher was granted a medical exemption to the vaccine mandate and is now no longer working in the school building or servicing students.
- 6) The COVID-19 mandate has resulted in the loss of three teachers from my school building which is almost 10% of the teaching staff

- 7) There are currently two teachers on leave due to other circumstances in their life not related to the COVID-19 vaccine mandate, so that brings us up to a total of 5 vacancies in the school.
- 8) My school has been negatively impacted by my mandated unpaid leave. Since, I am the School Programmer, I had the sole ability, including official NYCDOE permissions, to make programmatic changes in all of the NYCDOE programming systems, including STARS Admin, STARS Client, STARS Classroom, ATS, Skedula, and IO Data Extractor.
- 9) Everyday, programming updates and changes need to be made to reflect student course needs, room reassignments due to social distancing and COVID-related room capacity limitations, and teacher program changes due to staffing needs.
- 10) Other staff members, including the School Payroll Secretary, Guidance Counselors, and Testing Coordinator only have limited programming permissions.
- 11) Since I was the only person on staff possessing all the required permissions and training to make permanent programming updates, none of the many programming adjustments needed in the last few days had been reflected on the teachers' or students' actual schedules.
- 12) As a result, students and teachers who were informed that their programs were changed did not see those changes reflected on their official digital programs.
- 13) This caused confusion as students and teachers reported to the wrong classrooms in the last three days.

- 14) As a result, an untrained School Payroll Secretary was granted Program Chair Access to all of these programming systems in the hope that the changes would then be reflected on all systems.
- 15) Our school has been flagged for not programming NX classes. These are classes for which students are legally required to be programmed.
- 16) NX classes represent classes in which a student or students failed to earn credit in the Spring or Summer of 2021. It is the NYCDOE policy that those students who failed to achieve credits due to pandemic-related issues be programmed with a special NX-coded class.
- 17) Since I, as school programmer, was not in the building and off payroll, I could not officially add the NX classes to the program or the students to the NX classes.
- 18) As a result, our school has been flagged for being out of NX compliance.
- 19) My school-specific email has been disabled while I am on Leave Without Pay. This has definitely harmed my own students.
- 20) I cannot receive, write, or submit college letters of recommendation for over twenty seniors who requested letters of recommendation from me.
- 21) I have been unable to submit letters of recommendation for scholarship or application programs like QuestBridge or CommonApp because the recommendation forms are sent to my school-specific email address.
- 22) Students are scrambling to find other teachers to write their letters of recommendation.
- 23) One deadline for a scholarship program has already past.
- 24) Our school is out of compliance in meeting Special Education Mandates and related services.

- 25) Our school's Program Services Report shows how many of our special education student's Individual Education Plan's are being met by our school program. As of October 6, 2021, below 70% of our Special Education students' mandates are being met by the program.
- 26) This is partially because programming data and information is not accurate since I was removed from school payroll and unable to make programming updates in the last few days.
- 27) No one else at our school has been trained to make the need program changes to raise our school's level of compliance.
- 28) Since the other teacher on unpaid leave is a certified Special Education teacher, his students are not receiving their mandated Special Education services from a certified Special Education teacher.
- 29) Several teachers have requested personal time off in our school over the last few days. Normally, this would not be a problem, but since three teachers out of thirty five are now on unpaid leave, with two other teachers already on leaves they requested, this creates a tremendous strain on the workload of the remaining teachers.
- 30) There are not enough teachers in the building right now for the school to administer required baseline assessments. The testing coordinator does not have enough bodies to create a testing program that safely covers proctoring, teaching, and class coverage requirements. An SAT will be administered next week and it is unclear if the school will have enough people for that administration as well.

31) The removal of two teachers who have been placed on unpaid leave and one who was granted a medical exemption, on top of the requested leaves we already had, has greatly negatively impacted the students, the faculty, and the staff at our school.

A handwritten signature in black ink, appearing to read "Peter Otto", written over a horizontal line.

Peter Otto